

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)
17.74.350, 17.74.352, 17.74.356, and)
17.74.357 pertaining to incorporation by)
reference of current federal regulations into) NOTICE OF PUBLIC HEARING ON
the asbestos control program, definitions,) PROPOSED AMENDMENT
asbestos project control measures, and)
clearing asbestos projects) (ASBESTOS CONTROL)

TO: All Concerned Persons

1. On November 15, 2006, at 10:30 a.m., a public hearing will be held in Room 35 of the Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., November 6, 2006, to advise us of the nature of the accommodation that you need. Please contact Robert A. Martin, Waste and Underground Tank Management Bureau, Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-4194; fax (406) 444-1374; or e-mail rmartin@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

17.74.350 INCORPORATION BY REFERENCE -- PUBLICATION DATES

(1) remains the same.

(a) a federal regulation, the reference is to the July 1, ~~2005~~ 2006, edition of the Code of Federal Regulations (CFR);

(b) and (c) remain the same.

AUTH: 75-2-503, MCA

IMP: 75-2-503, MCA

17.74.352 DEFINITIONS For purposes of this subchapter, the following definitions apply:

(1) through (4) remain the same.

(5) "Asbestos project" has the meaning given in 75-2-502(3), MCA. "Pipe," as the term is used in this definition and ~~75-2-503(3)~~ 75-2-502(3), MCA, includes any coating or wrap made of regulated asbestos-containing material that partially or wholly covers the inner or outer surface of the pipe.

(6) through (21) remain the same.

(22) "Equipment room (change room)" means a contaminated room located

within the ~~contamination~~ decontamination area that is supplied with impermeable bags or containers for the disposal of contaminated protective clothing and equipment.

(23) through (36) remain the same.

AUTH: 75-2-503, MCA

IMP: 75-2-503, MCA

17.74.356 ASBESTOS PROJECT CONTROL MEASURES (1) An asbestos project contractor/supervisor shall be physically present at all times at the work site ~~where~~ when regulated work is being conducted on an asbestos project ~~is being conducted~~. The asbestos project contractor/supervisor shall be accessible to all asbestos project workers.

(2) and (3) remain the same.

AUTH: 75-2-503, MCA

IMP: 75-2-503, MCA

17.74.357 CLEARING ASBESTOS PROJECTS (1) At the conclusion of any asbestos project conducted in a facility, the owner of the facility or the owner's designee shall sample and analyze the air to ensure that the indoor concentration of airborne fibers in a non-occupational setting for each of five samples is less than or equal to 0.01 fibers per cubic centimeter of air or 70 structures per square millimeter of filter. Clearance sampling is not required if an asbestos project in a facility has occurred immediately prior to demolition of the entire facility, and the facility is not reoccupied prior to demolition. The five air samples must be taken in accordance with the Montana Asbestos Work Practices and Procedures Manual.

(2) remains the same.

AUTH: 75-2-503, MCA

IMP: 75-2-503, MCA

REASON: Annually, the department updates ARM 17.74.350 which incorporates by reference the Code of Federal Regulations (CFR). The incorporation by reference process is accomplished by amending the CFR publication date specified in ARM 17.74.350(1)(a). The amendment to ARM 17.74.350(1)(a) would allow the department to follow the most recent edition of federal regulations, and thus maintain comity with EPA, to preserve program authorization.

The department is proposing to correct a citation in ARM 17.74.352(5), and a typographical error in ARM 17.74.352(22). The incorrect citation and typographical error were inadvertent drafting errors.

The revisions to ARM 17.74.356(1) and 17.74.357(1) are necessary to clarify the rules, but do not change the meanings.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be

submitted to Robert A. Martin, Waste and Underground Tank Management Bureau, Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-4194; fax (406) 444-1374; or e-mail to rmartin@mt.gov, no later than November 22, 2006. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

5. Jane Amdahl, attorney, has been designated to preside over and conduct the hearing.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list must make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supplies; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Such written request may be mailed or delivered to Elois Johnson, Paralegal, Legal Unit, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, e-mailed to ejohnson@mt.gov, or may be made by completing a request form at any rules hearing held by the department.

7. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

Reviewed by:

DEPARTMENT OF ENVIRONMENTAL
QUALITY

/s/ David Rusoff

DAVID RUSOFF
Rule Reviewer

/s/ Richard H. Opper

Richard H. Opper, Director

Certified to the Secretary of State, September 25, 2006.